

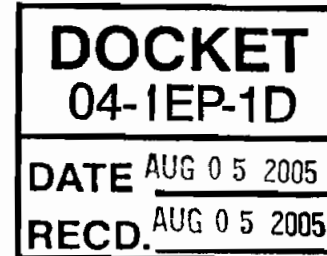


Duke Energy  
North America, LLC  
980 – 9<sup>th</sup> Street, Suite 1420  
Sacramento, CA 95814  
(916) 441-6233 (OFFICE)  
(916) 441-2569 (FAX)

August 5, 2005

John L. Geesman  
Commissioner and Presiding Member  
Of the 2005 Integrated Energy Policy Report Committee

James D. Boyd  
Commissioner and Associate Member  
Of the 2005 Integrated Energy Policy Report Committee



**Re: Reply Comments of Duke Energy North America in CEC Docket 04-IEP-1D,  
*California and Western Electricity Supply Outlook Report.***

Consistent with the July 14, 2005 Notice issued in this docket, Duke Energy North America (“DENA” or “Duke Energy”), operator of a number of existing generation facilities including the South Bay power plant in Chula Vista, California, applauds the Staff’s efforts in compiling and presenting the revised *California and Western Electricity Supply Outlook Report* (“Supply Report”). Duke is keenly interested in assuring continued reliability throughout California, and particularly in Southern California, from the existing resources that it owns or operates. Moreover, Duke is interested in pursuing plant modernizations and /or replacement projects within the Local Reliability Areas to help ensure that these areas have adequate reserves. Such modernization and/or replacement projects will enable the orderly, safe, and predictable retirement of the older and less efficient generation and this benefits everyone. Duke presents these Reply Comments as a follow-up to the brief oral comment presented at the July 26 hearing.

**I. The Supply Report Highlights A Critical Issue Regarding Existing Resources And System Reliability.**

Duke has consistently advocated for some time now the need for an interim or “bridging” contract mechanism that will assure the continued availability of certain existing resources while additional market design changes like the California Public Utilities Commission’s (“CPUC”) Resource Adequacy Requirement policy or a formal capacity market are developed.<sup>1</sup> Duke’s concern centers upon the failure of today’s wholesale market

<sup>1</sup>See, e.g., *Comments of Duke Energy North America on the Proposed Decision of ALJ Wetzell Regarding Resource Adequacy Issues*, September 20, 2004 in R.04-04-003 arguing that the utilities should be given interim or transitional procurement authority to secure capacity in anticipation of RAR; *Opening Brief of Duke Energy North America on Electric Utility Resource Planning*, October 18, 2004 in R.04-04-003 arguing in favor of an interim contracting arrangement as described in testimony presented in that case; *Reply Brief of Duke Energy North America on Electric Utility Resource Planning*, November 1, 2004 in R.04-04-003, arguing for interim steps to maintain availability of existing capacity while focusing on the eventual development of a formal capacity market structure; *Comments of Duke Energy North America on the Proposed Decision of ALJ Brown Regarding Electric Utility Long Term Resource Plans*, December 6, 2004 in R.04-04-003 arguing for including

structure to support existing capacity that does not have a bilateral contract with a load serving entity, and the potential risk to system reliability that could arise should these facilities retire before replacement resources are online. Although strenuously advocated by Duke and others in the generation community, the concept of an interim bridging capacity contract has not been embraced by either the LSEs or the CPUC.

Duke applauds the CEC for explicitly acknowledging this critical issue in a number of places. At page 5, the Report states that 24,000 MWs of new resources will be needed by 2016, capacity that will also replace existing resources that must retire. At page 15 the Report focuses on near-term (2006-2010) needs, and highlights an earlier Commission report regarding retirement risks when it states:

the next five years will be largely determined by its ability to reduce demand and secure the necessary resources to meet increased load due to population growth and economic expansion and to offset the possible retirements of aging power plants, particularly in Southern California. Energy Commission staff report, *Resource, Reliability and Environmental Concerns of Aging Power Plant Operations and Retirements* identified several power plants with a high risk of retirement if they do not secure contracts providing financial incentives for their continued operation. [Note omitted.]

Report, page 15, emphasis added.

The Report, at page 16, correctly emphasizes how this reliability risk is most acute in Southern California, where the vast majority of power plants at a high risk of retirement are located. Moreover, this risk of failing to meet the WECC Minimum Operating Reserve Criteria ("MORC") is extremely pressing as it occurs under the adverse conditions scenario in 2006, and by 2008 MORC cannot be sustained under the average conditions.

The Report succinctly describes the problem in unwavering terms:

Resource adequacy in California through 2010 will be influenced to a large extent by the continued operation of power plants at risk of retiring due to lack of financial incentives. If these plants are retired and their capacity not replaced by alternative resources, California will not be able to maintain minimum required operating reserve margins

**beyond 2006 during periods of very hot temperatures, and the CA ISO Southern Region will fall below minimum required operating reserve margins in 2006 during normal temperature conditions.**

Report, page 20, emphasis added.

Duke concurs with this conclusion. Moreover, Duke is encouraged that the Report explicitly suggests a short-term interim capacity contract, like the bridging contracts that Duke has been advocating, as an important means of avoiding this risk:

The Energy Action Plan Loading Order [note omitted] has been established as the preferred method of securing resources to meet the long-term deficits created by the retirement of these aging power plants. **However, in the near-term, new demand reduction programs and/or short-term contracts delaying the retirement of key high-risk facilities may be the most expedient options for maintaining the WECC minimum operating reserve margins, particularly in the Southern California Region served by the CA ISO.**

Report, page 17, emphasis added.

This is precisely the concept that Duke has advocated as a means of assuring continued availability of at-risk resources until such time as more durable market-based mechanisms like the RAR policy and formal capacity markets are implemented. It must be pointed out that the most recent revised draft of the Energy Action Plan II—which will be before this Commission for adoption at the August 24 business meeting—now explicitly addresses the need to maintain the availability of existing resources.<sup>2</sup> The Report therefore provides a valuable and compelling analysis emphasizing the concerns Duke has pressed in other arenas, including its comments on the draft EAP II. We would suggest, therefore, that the Commission revise the Report to note the new emphasis on maintaining availability of existing resources now found in the draft EAP II.

## **II. Conclusion**

Duke applauds the Commission staff's work on the Supply Report, and encourages the Commission to adopt it with the minor modification to clarify that the draft EAP II also

---

<sup>2</sup> See, *Draft Energy Action Plan II, Implementation Roadmap for Energy Policies*, July 27, 2005, Key Actions Nos. 2 and 5, page 7, re providing for the continued operation of existing generation needed to meet current reliability needs, and managing California's aging electricity infrastructure ... to provide orderly retirements. This document is posted at [http://www.energy.ca.gov/energy\\_action\\_plan/2005-07-27\\_EAP2\\_DRAFT.PDF](http://www.energy.ca.gov/energy_action_plan/2005-07-27_EAP2_DRAFT.PDF).

recognizes the need to maintain the availability of existing resources on a short-term basis through bridging contracts in order to maintain reliability, particularly in Southern California.

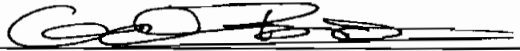
Sincerely,

---

Melanie Gillette

Director, State Regulatory Affairs  
Duke Energy North America  
980 Ninth Street, Suite 1420  
Sacramento, CA 95814  
Phone: (916) 441-6233  
Fax: (916) 441-2569  
mlgillette@duke-energy.com

August 5, 2005



---

Andrew B. Brown

Ellison Schneider & Harris L.L.P.  
2015 H Street  
Sacramento, CA 95814  
Tel: (916) 447-2166  
Fax: (916) 447-3512  
Email: abb@eslawfirm.com

Attorneys for Duke Energy North America